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Wildlife habitat protection

HABITAT PROTECTION
AN INTERIM REPORT

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House and Senate Fish and Game Committees
1991 Montana State Legislature

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PURPOSE OF THIS REPORT

The Statement of Intent for HB 526 (87-1-241 et seq MCA) as passed by the 1987 legislature, has the following requirement: The policy and an analysis for each proposal acted upon in a biennium must be presented to the members of both the house and senate fish and game committees when they next meet in regular session.

This report summarizes actions relative to HB 526 (87-1-241) et seq MCA) from January 1, 1989 through December 31, 1990.

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SECTION I

STATEMENT OF INTENT

HOUSE BILL 526

House Fish and Game Committee

(The following is the text of the Statement of Intent as adopted by the 50th Legislature).

House Bill No. 526 requires a statement of intent because section 1 requires the fish and game commission to adopt rules establishing its policy regarding wildlife habitat acquisitions provided for by this act.

It is the intent of this act to provide a means for the department of fish, wildlife and parks to acquire an interest in land for the purpose of protecting and enhancing wildlife habitat. Such interest in land must be gained by the purchase of leases, conservation easements, or fee title. While it is preferable to acquire such interest through lease or conservation easement, the legislature acknowledges that the willing seller will determine the manner by which such interest is obtained and thus provides for all three alternatives.

It is intended that the rules will address policy considerations for making acquisitions generally, as well as establishing procedures for determining in each case of a proposed acquisition whether the interest will be acquired.

It is intended that the commission identify habitat needs by administrative region and compile these needs in a consolidated statewide habitat acquisition plan. The rules must ensure that acquired interests in habitat lands are reasonably distributed around the state in accordance with the statewide habitat acquisition plan AND THAT EMPHASIS IS PLACED UPON THOSE AREAS WHERE IMPORTANT HABITAT IS SERIOUSLY THREATENED.

It is intended that the department exercise good land management practices on all land acquired, and multiple uses of such land when not detrimental to its value as wildlife habitat are specifically authorized. The department shall identify management objectives for each proposed acquisition, analyze potential impacts to adjacent private land resulting form those objectives, and develop plans to address such impacts.

A public hearing must be held in the area of each proposed acquisition after the required analysis has been completed by the department, for the purpose of obtaining comment from the interested public. The analysis and related public concerns are to be presented to the fish and game commission prior to its final action on any acquisition of interest and also to the board of land commissioners if that body is required to make a decision on the proposal under 87-1-209.

The policy and an analysis for each proposal acted upon in a biennium must be presented to the members of both the house and senate fish and game committees when they next meet in regular session.

CHAPTER NO. 598

[HB 526]

AN ACT TO PROVIDE FOR THE LEASE OR PURCHASE OF LAND OR EASEMENTS FOR WILDLIFE HABITAT AND THE DEVELOPMENT AND MAINTENANCE THEREOF; TO PROVIDE FUNDING THROUGH HUNTING LICENSE FEE INCREASES; TO SPECIFY THE NUMBER OF NONRESIDENT DEER "A" LICENSES THAT MAY BE SOLD; AMENDING SECTIONS 87-2-403, 87-2-504, 87-2-505, 87-2-507, 87-2-701, AND 87-2-711, MCA; PROVIDING A DELAYED EFFECTIVE DATE; AND PROVIDING A TERMINATION DATE.

WHEREAS, the lease or purchase of land suitable for wildlife habitat and the acquisition of conservation easements to protect and enhance habitat are necessary; and

WHEREAS, allocating revenue from increases in hunting license fees is appropriate to fund the protection and enhancement of wildlife habitat.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Acquisition of wildlife habitat — rules.** (1) Before acquisition of any interest in land for the primary purpose of securing wildlife habitat the commission shall by rule establish a policy for making such acquisitions. With regard to any specific acquisition the policy shall provide for a comprehensive analysis of:

(a) the wildlife populations and use currently associated with the property;

(b) the potential value of the land for protection, preservation, and propagation of wildlife;

(c) management goals proposed for the land and wildlife populations, and where feasible, any additional uses of the land such as livestock grazing or timber harvest;

(d) any potential impacts to adjacent private land resulting from proposed management goals, and plans to address such impacts;

(e) a land maintenance program to control weeds and maintain roads and fences; and

(f) any other matter considered necessary or appropriate by the commission.

(2) The analysis made of any proposed acquisition must be made available for review by each owner of land adjacent to the property that is the subject of analysis, and to any member of the public. A public hearing must be held in the affected area after the analysis has been made available to the public.

Section 2. **Funding for wildlife habitat.** (1) The amount of money specified in this subsection from the sale of each hunting license or permit listed must be used exclusively by the commission to secure, develop, and maintain wildlife habitat, subject to appropriation by the legislature.

(a) Class B-10, nonresident combination, $100;

(b) Nonresident antelope, $20;

(c) Nonresident moose, $20;

(d) Nonresident mountain goat, $20;

(e) Nonresident mountain sheep, $20;

(f) Class D-1, nonresident mountain lion, $20;

(g) Nonresident black bear, $20;

(h) Wild turkey nonresident, $10;

(i) Class AAA, sportsman's, $9.

(2) Twenty percent of any increase after [the effective date of this act] in the fee for the Class B-7 license or any license or permit listed in subsection (1) must be allocated for use as provided in subsection (1).

(3) Eighty percent of the money allocated by this section, together with the interest and income therefrom, must be used to secure wildlife habitat pursuant to 87-1-209.

(4) Twenty percent of the money allocated by this section must be credited to the account created by 87-1-601(5) for use in the manner prescribed therein for the development and maintenance of real property used for wildlife habitat.

Section 3. Section 87-2-403, MCA, is amended to read:

"**87-2-403. Wild turkey tags and fee.** (1) The department may issue wild turkey tags to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag shall entitle the holder to pursue, hunt, shoot, and kill one wild turkey and possess the carcass thereof, during such times and such places as the department shall authorize an open season on wild turkey.

(2) The fee for a wild turkey tag *is* $3 *for residents and $13 for nonresidents*. Turkey tags shall be issued either by a drawing system or in unlimited number as authorized by department rules.

(3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805 may purchase a wild turkey tag upon presentation of his wildlife conservation license."

Section 4. Section 87-2-504, MCA, is amended to read:

"**87-2-504. Class B-7 and B-8—nonresident deer licenses.** Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older prior to September 15 of the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish and game office, Helena, Montana, to purchase one each of the following licenses: Class B-7, deer A tag, *$150*; Class B-8, deer B tag, $50; and will entitle the holder to pursue, hunt, shoot, and kill the game animal or animals authorized by the license held and to possess the carcasses of those animals as authorized by department rules. Unless purchased as part of a B-10 license, a Class B-7 license must be assigned for use in a specific administrative region or portion thereof. *Not more than 5,000 Class B-7 licenses may be sold in any license year. Money received from the sale of Class B-7 licenses in excess of 1,700 must be used as provided in [section 2(1)].*"

Section 5. Section 87-2-505, MCA, is amended to read:

"**87-2-505. Class B-10—nonresident big game combination** license. Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who will be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon payment of the fee of *$450* and subject to the limitations prescribed by law and department regulation, apply to the fish and game office, Helena, Montana, to purchase a B-10 nonresident big game combination license which shall entitle the holder to all the privileges of Class B, Class B-1, Class B-7, and black bear licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than 17,000 Class B-10 licenses may be sold in any one license year."

Section 6. Section 87-2-507, MCA, is amended to read:

"87-2-507. Class D-1—nonresident mountain lion license. Except as otherwise provided in this chapter, a person not a resident, as defined in 87-2-102, but who is 12 years of age or older, upon payment of a fee of *$320* may receive a Class D-1 license which shall entitle the holder thereof to pursue, hunt, shoot, and kill mountain lion and possess the carcass thereof as authorized by department rules. If a holder of a valid mountain lion license under this section kills a mountain lion, he must purchase a trophy license for a fee of $50 within 10 days after the date of kill. The trophy license authorizes the holder to possess and transport such trophy."

Section 7. Section 87-2-701, MCA, is amended to read:

"87-2-701. Special licenses. (1) Any applicant who will be 12 years of age or older prior to September 15 of the season for which the license is issued and is the holder of a resident wildlife conservation license or a nonresident wildlife conservation license may apply for a special license which, in the judgment of the department, is to be issued and shall pay the following fees therefor:

(a) moose—resident, $50; nonresident, *$320*;

(b) mountain goat—resident, $50; nonresident, *$320*;

(c) mountain sheep—resident, $50; nonresident, *$320*;

(d) antelope—resident, $6; nonresident, *$120*;

(e) grizzly bear—resident, $50; nonresident, $300;

(f) black or brown bear—nonresident, *$120*;

(g) wild buffalo—resident, $200; nonresident, $1,000.

(2) In the event a holder of a valid special grizzly bear license kills a grizzly bear, he must purchase a trophy license for a fee of $25 within 10 days after date of kill. Such trophy license shall authorize the holder to possess and transport said trophy.

(3) Special licenses shall be issued in a manner prescribed by the department."

Section 8. Section 87-2-711, MCA, is amended to read:

"87-2-711. Class AAA—sportsman's license. Any resident, as defined by 87-2-102, who will be 12 years of age or older prior to September 15 of the season for which the license is issued, upon payment of the sum of *$45*, shall be entitled to a sportsman's license which shall permit the holder to exercise all rights granted to holders of Class A, A-1, A-3, A-5, A-6, and resident conservation licenses as prescribed in 87-2-202. The department shall furnish each holder of a sportsman's license an appropriate decal."

Section 9. **Extension of authority.** Any existing authority of the department of fish, wildlife, and parks or the fish and game commission to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 10. **Codification instruction.** Sections 1 and 2 are intended to be codified as an integral part of Title 87, chapter 1, and the provisions of Title 87 apply to sections 1 and 2.

Section 11. **Coordination instruction.** (1) If Senate Bill No. 331 is passed and approved:

(a) any reference in Senate Bill No. 331 to a fee increase in the Class B-10 nonresident combination license in 87-2-505 or in the Class AAA sportsman's license in 87-2-711 may not be considered as fee increases in addition to the fee increase for those licenses; and

(b) any dedication of a portion of the Class B-10 nonresident combination and Class AAA sportsman's license fees in section 1 of Senate Bill No. 331 must be deducted from the amount of such fees dedicated in section 2 of this act.

(2) If House Bill No. 535 and the provision therein creating a Class B-11 license is passed and approved:

(a) the fee established in House Bill No. 535 for the Class B-11 license is increased to $200; and

(b) a new subsection is added to section 2 of this act that reads: "Class B-11 nonresident deer combination, $200."

Section 12. **Effective date — termination date.** This act is effective March 1, 1988, and terminates March 1, 1994.

Approved April 23, 1987.

CHAPTER NO. 515

[HB 720]

AN ACT TO REQUIRE A SOCIAL AND ECONOMIC IMPACT ANALYSIS OF ANY WILDLIFE HABITAT ACQUISITION BY THE FISH AND GAME COMMISSION; AMENDING SECTION 87-1-241, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-241, MCA, is amended to read:

"**87-1-241. (Effective March 1, 1988, to March 1, 1994) Acquisition of wildlife habitat — rules.** (1) Before acquisition of any interest in land for the primary purpose of securing wildlife habitat the commission shall by rule establish a policy for making such acquisitions.

With regard to any specific acquisition the policy shall provide for a comprehensive analysis of:

(a) the wildlife populations and use currently associated with the property;

(b) the potential value of the land for protection, preservation, and propagation of wildlife;

(c) management goals proposed for the land and wildlife populations, and where feasible, any additional uses of the land such as livestock grazing or timber harvest;

(d) any potential impacts to adjacent private land resulting from proposed management goals, and plans to address such impacts;

(e) any significant potential social and economic impacts to affected local governments and the state, including but not limited to impacts on:

(i) tax revenue available for the operation of taxing jurisdictions within the county;

(ii) services required to be provided by local governments;

(iii) employment opportunities within the counties;

(iv) local schools; and

(v) private businesses supplying goods and services to the community;

(f) a land maintenance program to control weeds and maintain roads and fences; and

(g) any other matter considered necessary or appropriate by the commission.

(2) The analysis made of any proposed acquisition must be made available for review by each owner of land adjacent to the property that is the subject of analysis, and to any member of the public. A public hearing must be held in the affected area after the analysis has been made available to the public. **(Terminates March 1, 1994—sec. 12, Ch. 598, L. 1987.)**"

Section 2. **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Section 3. **Effective date.** [This act] is effective on passage and approval.

Approved April 12, 1989.

WILDLIFE HABITAT TRUST
Account #021146 --HB 526
Acquisition

	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993
Beginning Fund Balance	0	$2,101,429	$955,470	($38,379)	$326,755	$38,144
Reverted Approps.	0	0	$15,254	0	0	0
Prior Year Revenue		($545)	$693			
Unreserved Fund Balance	0	$2,100,884	$971,417	($38,379)	326,755	$38,144
Estimated Revenue						
License Sales			$2,249,111	$2,251,244	$2,255,120	$2,255,120
Interest (8%)			$75,058	$5,592	$56,269	$33,180
Total Revenue	$2,101,429	$2,360,157	$2,324,169	$2,256,836	$2,311,389	$2,288,300
Funds Available	$2,101,429	$4,461,041	$3,295,586	$2,218,457	$2,638,144	$2,326,444
Expenditures:						
Acquisition:						
Old		($3,504,838)			0	0
New (1989 Session)		($733)	($3,333,965)	($1,891,702)	0	0
Requested (1991 Session)					($2,600,000)	($2,323,356)
Operations						
EPP						
Total Expenditures	0	($3,505,571)	($3,333,965)	($1,891,702)	($2,600,000)	($2,323,356)
Ending Fund Balance	$2,101,429	$955,470	($38,379)	326,755	$38,144	$3,088

WILDLIFE HABITAT TRUST INTEREST
Account #02469 --HB 526
Maintenance Account

	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993
Beginning Fund Balance	0	$13,461	$51,444	$86,406	$123,927	$108,132
Reverted Approps.			0	0	0	0
Unreserved Fund Balance	0	$13,461	$51,444	$86,406	$123,927	$108,132
Estimated Revenue	$13,461	$50,553	$119,011	$146,327	$196,524	$246,629
Funds Available	$13,461	$64,014	$170,455	$232,733	$320,451	$354,761
Expenditures:						
Wildlife	0	($12,570)	($67,999)	($80,300)	($68,000)	($68,000)
Field Services (taxes)	0		($16,050)	($18,000)	($36,800)	($42,400)
Capital:						
Old	0		0	0	0	0
New (1989 Session)			0	($10,506)	($31,519)	0
Requested (1991 Session)					($76,000)	($228,000)
Total Expenditures	0	($12,570)	($84,049)	($108,806)	($212,319)	($338,400)
Ending Fund Balance	$13,461	$51,444	$86,406	$123,927	$108,132	$16,361

WILDLIFE HABITAT TRUST
Account #090006 --HB 526

	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993
Beginning Fund Balance	0	$525,357	$1,111,716	$1,640,620	$2,203,431	$2,765,211
Prior Year Revenue		$11,650)	$291			
Transferred Interest Earnings			($28,092)			
Unreserved Fund Balance	0	$513,707	$1,083,915	$1,640,620	$2,203,431	$2,765,211
Estimated Revenue	$525,357	$569,917	$669,606	$562,811	$561,780	$561,780
Funds Available	$525,357	$1,083,624	$1,753,521	$2,203,431	$2,765,211	$3,326,991
Expenditures: none allowed	0	0	0	0	0	0
Transfer Out			($112,901)			
Total Expenditures	0	0	($112,901)	0	0	0
Untransferred Interest Earnings		$28,092				
Ending Fund Balance	$525,357	$1,111,716	$1,640,620	$2,203,431	$2,765,211	$3,326,991

Interest earnings from this account are transferred to account #02469

WILDLIFE HABITAT ACQUISITION

Projects using HB 526 Appropriations from 1987 and 1989

PROJECT	LOCATION	COST	ACRES	METHOD
Robb Creek WMA	Sheridan	$1,840,000	17,170.66	Fee Title
		$12,019.94**	10,657.69	Lease
Blackfoot-Clearwater WMA	Ovando	$1,468,000	2,960.00	Fee Title
		$9,876.75**	14,582.00	Lease
Brewer WMA	Powderville	$1,100,000	17,845.50	Fee Title*
		$4,506.38**	4,265.65	Lease
Mt. Silcox WMA	Thompson Falls	$ 690,000	1,552.30	Fee Title
Dome Mts. WMA	Gardiner	$1,528,075	2,098.05	Fee title
		90,000	160.00	Conservation Easement
TOTAL		$6,716,075	71,291.85	

*To be exchanged for easements on additional private land.

**Annual lease fees.

SECTION II

STATEWIDE HABITAT PLAN NARRATIVE

Montana is recognized nationally for its abundance and variety of wildlife, particularly big game. Montana's wildlife, hunting and other wildlife uses, provide significant social and economic values to the people of the state. In 1984, 1 of 3 Montanans (ages 12 - 65) and 17,000 nonresidents were licensed to hunt. They spent 2.4 million days afield; 80 percent for big game hunting. By 1990, over 3 million hunting days are expected.

Major big game species, and other wildlife, utilize a mixed ownership of public and private lands, and the degree of wildlife use depends upon the stewardship that those lands receive. Land uses are particularly complex where public and private lands are intermixed. Land uses that impact habitat and restrictions on public access are both major statewide wildlife management issues. Increasing numbers of hunters and crop damage by wildlife concern many landowners. Proper land stewardship is a major concern for both wildlife and agricultural interests. Improved, long-term capability and productivity of Montana's lands could benefit both public and private interests.

The Montana Department of Fish, Wildlife and Parks is not now, nor does it expect to become a major land management agency. From 1940 through 1986, a total of 189,448 acres have been acquired by MDFWP from willing sellers for public Wildlife Management Areas. This comprises only 0.3% of Montana. An additional 93,093 acres are

leased by the department for this purpose.

The department will utilize two basic approaches in implementing HB 526:

A. Protect and Enhance Wildlife Habitat in Private Ownership - Using Economic Incentives

B. Protect and Enhance Wildlife Habitat - Using Purchase from Willing Sellers

A. Maintaining Wildlife Habitat in Private Ownership

The department can offer to purchase conservation easements, leases, lend technical assistance and possibly other incentives in agreement for measures by the landowner to protect soil, vegetation, watersheds and wildlife and/or to allow some degree of public access. The long-term capability of the land, for wildlife and agriculture would improve and public and private interests could benefit.

Conservation Easement. This type of easement is a long term dedication of land to conservation practices that are mutually agreeable between the landowner and the MDFWP. These agreements can apply to all wildlife species. Negotiable items include specific land uses, cultural practices and improvements and public access for recreation. The landowner would be compensated for the

value of public benefits received. The value of the easement would vary habitat potential, land condition, area, cost for improvements, etc.

Lease. This would include agreements for a specified period in which a landowner is compensated by the department for carrying out specific wildlife management practices on his land. This option would apply to all wildlife species. Anticipated uses of leases would be:

- Short term agreements to allow or require implementation of specific practices, while long-term agreements are in negotiation.

- Long term agreements, such as for wildlife grazing privileges, on corporate or federal lands or management options on state school trust lands associated with department owned property or management areas.

Cost Sharing. In some cases, FWP has provided cost sharing on private lands. This process could be used when other stewardship options are not applicable. The project must have long term cost benefits.

B. Protect and Enhance Wildlife Habitat by Purchase from Willing Landowners

Acquisitions. Some private landowners wish to guarantee the

future use of selected pieces of land for wildlife and/or wish to exercise their option to sell. Wildlife management does not necessarily preclude the continued use of these lands for agriculture.

Acquisitions are most applicable where:

- Key tracts of critical habitat have the capability to produce abundant wildlife outputs for public benefit. The big game winter ranges and wildlife management areas currently managed by DFWP are good examples.

- Intensity or type of management necessary if beyond what a private landowner can be expected to provide.

All of the above approaches (easement, leases, habitat incentives and purchases have the potential to protect and enhance public wildlife values and provide economic opportunities to the private sector, depending upon "the case in hand."

The Statewide Habitat Map addresses the key species of mule deer, white-tailed deer, elk and antelope. This does not preclude important habitats for other species such as bighorn sheep, upland game birds, and waterfowl. The species may have very defined ranges with specific habitat requirements. Mapping these particular areas on a statewide basis is impractical.

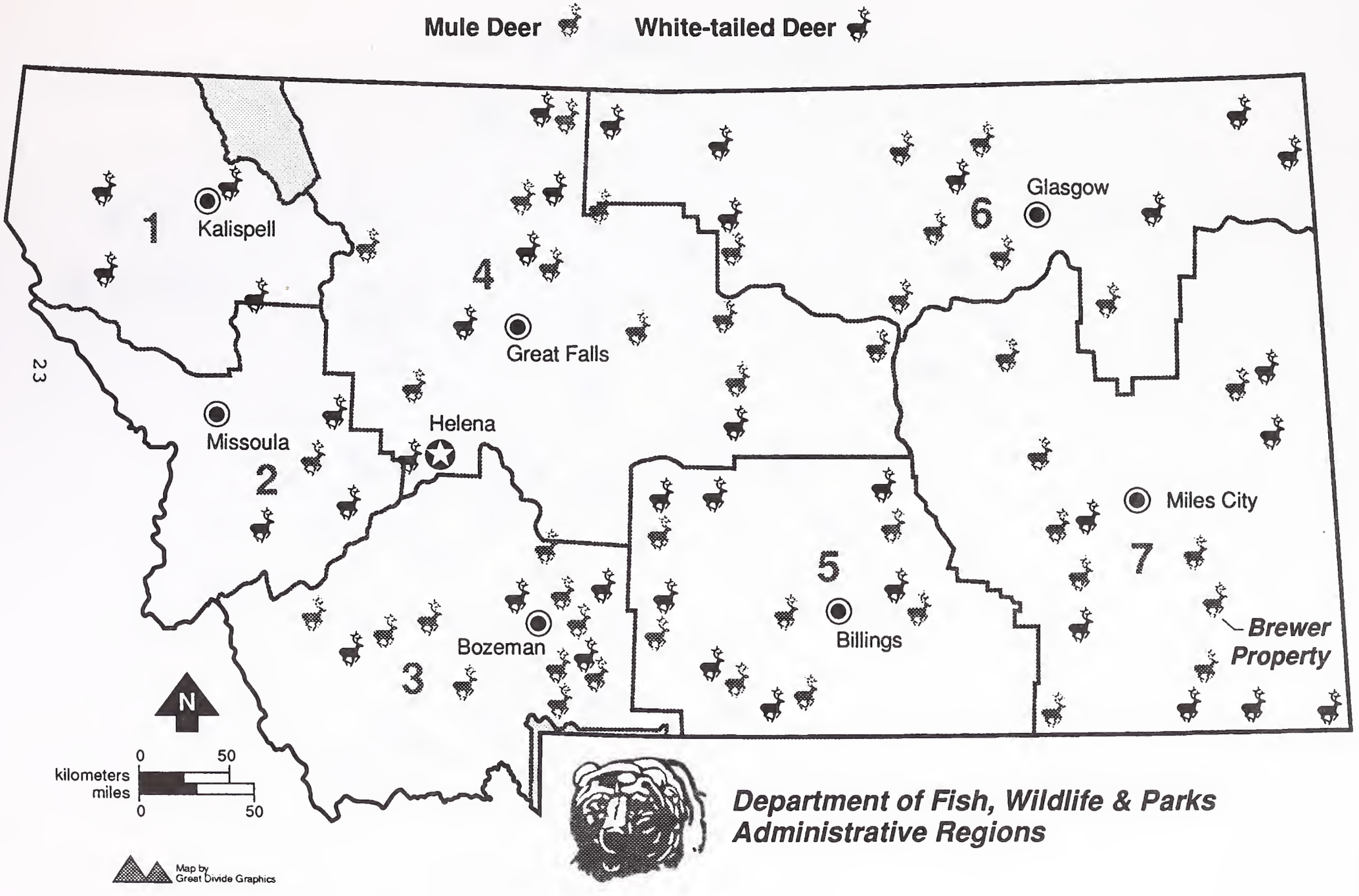
Specific wildlife species habitats were delineated by the regional biologists to compile the statewide map. The primary factor considered initially is whether land/habitat issues have been identified as limiting factors in the department's Strategic Plan. The ranking of this category by each region generally represents its influence on meeting regional objectives for the species.

Criteria such as animal densities, distribution and migration, landownership patterns, hunter distribution and access were considered in establishing critical areas on the maps.

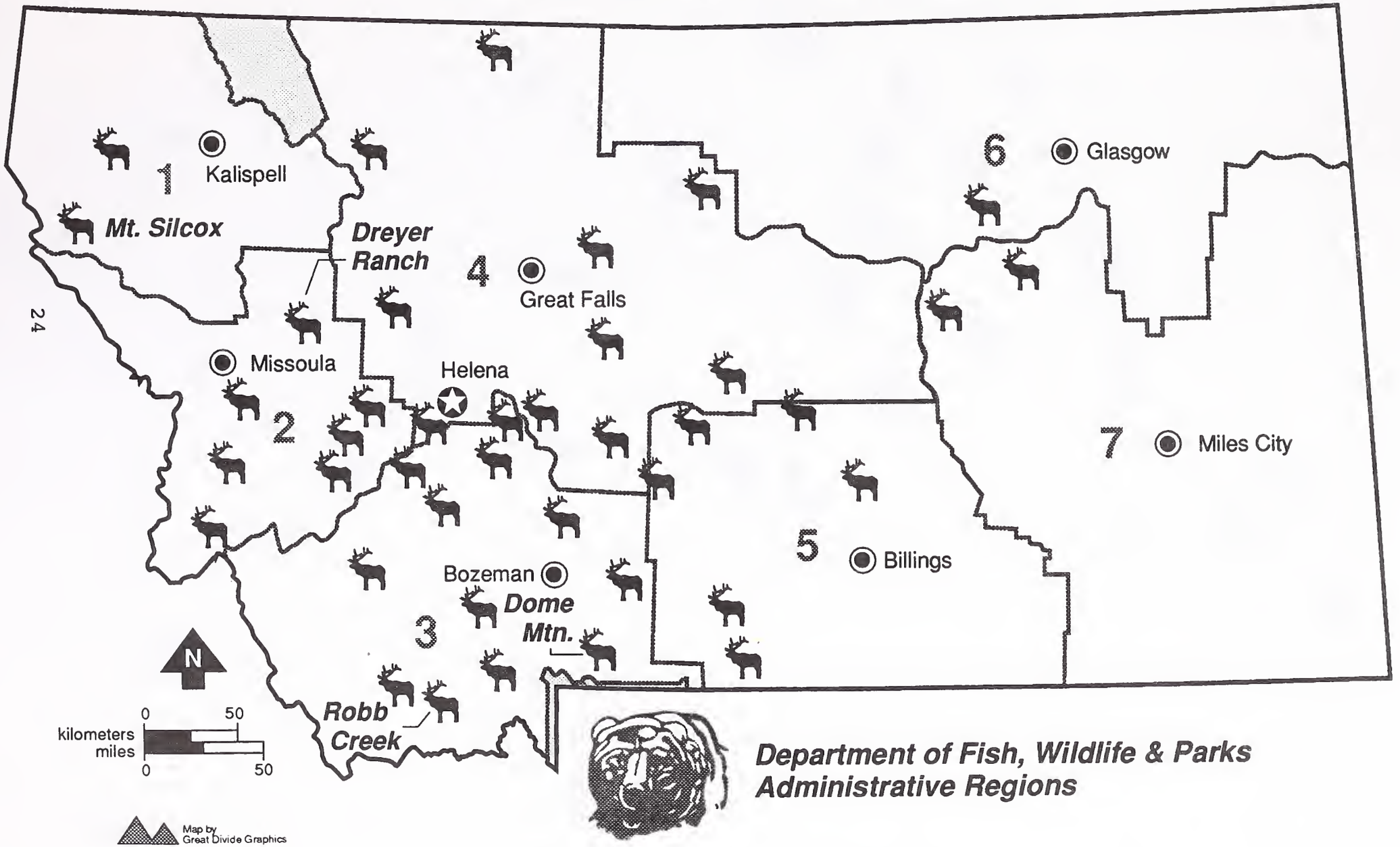
The priorities within each species will depend upon numerous factors and how each relates to the objectives established. The highest priority for any species will be critical habitat related parcels such as winter range for elk or key deer ranges on private land. Priorities will be directed toward areas that have significant proportions of the herd segment utilizing private property that may be irreversibly lost as wildlife habitat. Habitat preservation has the highest priority.

1228.1

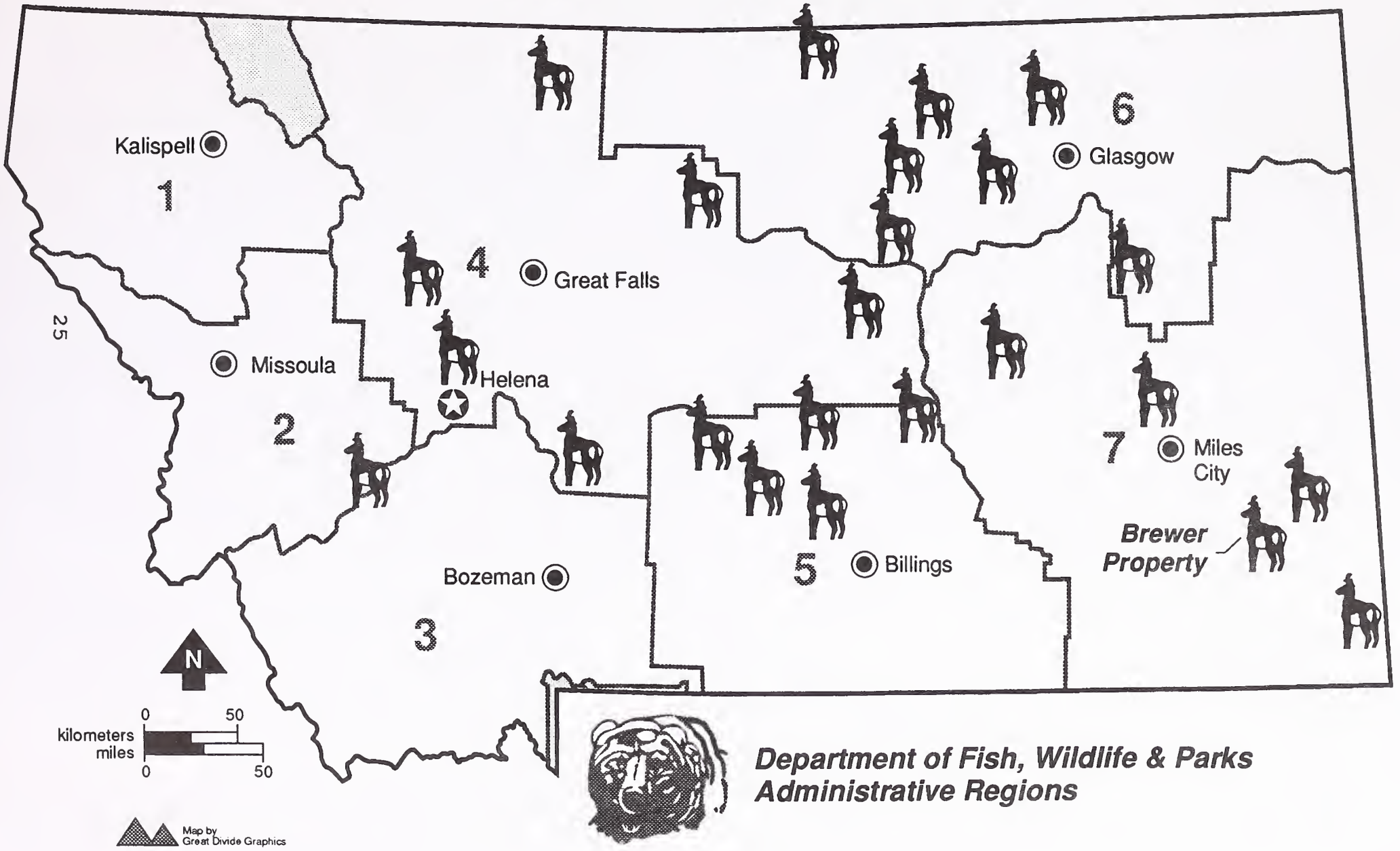
Habitat Needs for Deer



Habitat Needs for Elk



Habitat Needs for Antelope



Department of Fish, Wildlife & Parks
Administrative Regions

SECTION III

BREWER RANCH

WILDLIFE MANAGEMENT AREA

PROJECT SUMMARY

MONTANA DEPARTMENT OF FISH,WILDLIFE AND PARKS

1990

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INTRODUCTION

The primary purpose of the Brewer Ranch acquisition is to protect valuable wildlife habitat. A secondary aspect of this acquisition is to develop a partnership between livestock operators and the Department for the benefit of wildlife and sportsmen.

This may include, but will not be limited to, cooperative grazing systems, trading lands, developing conservation easements, and public hunting access agreements.

AREA DESCRIPTION

The Brewer property is located in southeast Montana and is composed of 17,845 acres of deeded land, 12,151 acres of Bureau of Land Management (BLM) land and 4,265 acres leased from he State Land Board (DSL). The majority of the Brewer Ranch is located in Carter and Powder River counties, with a small portion in Custer County. The property is found approximately 18 miles southwest of Ekalaka and 30 miles northeast of Broadus, Montana.

The northern boundary of the property is formed by the Powder River. Topography of the area is variable, and ranges from rolling sagebrush-grassland hills to steep-sided forested buttes. Numerous deeply cut ravines also occur on the property. Vegetation types on this property are dominated by sagebrush-grassland communities with hardwood-dominated brushy draws. Riparian zones are typified by sedges and wet-site grasses. Riparian communities occurring along the Powder River are dominated by cottonwood with dense pockets of willows, and form a mosaic with ponderosa pine savannah communities. Additionally, there are mature cottonwoods occurring along some draws and along some portion of the creek bottoms. Alfalfa is grown for hay on 500 acres of the Powder River bottom lands.

A rest-rotation grazing management program will be established on the ranch. This program is expected to increase protection of the soil as grasses and forbs expand into the bare ground areas between existing plants. Soil erosion will be lessened, and increased cover will be available to ground nesting birds such as sharptails, huns, meadowlarks, and vesper sparrows. The increased diversity and quantity of vegetation will provide added food for sage grouse, antelope and deer. An additional benefit of increased livestock carrying capacity is also anticipated.

MANAGEMENT GOAL

The management goal for the Brewer Ranch is to improve the condition of all vegetation communities with resulting enhancement of wildlife habitat. Primarily, this is a project to protect and manage one of the most critical habitats in Montana - the sagebrush-grassland vegetation type. This land stewardship project will be designed to improve range conditions and allow for increased wildlife and livestock production by applying the principles of rest-rotation grazing. Existing projects (Wall Cr. & Fleecer Mt.), which presently accommodate multiple lessees in their cow-calf operation will serve as working examples to develop the Brewer project. We will concentrate our block management and hunting access program with landowners adjacent to or affected by the Brewer project.

Historically, the conflict between those who want to convert sagebrush-grassland communities, and the wildlife professionals and sportsmen who want sagebrush protected seems unresolvable. This project represents a solution to that conflict, as all interests share the common idea of protecting the soil and maintaining the vegetation in a highly productive state by using the principles of rest-rotation grazing.

PROJECT STATUS

1. Montana Department of Fish, Wildlife and Parks has entered into an interim lease agreement with Mike Moullet, former ranch manager for Bud Brewer. The agreement provides for grazing of public and private land in a manner consistent with historic practices. There will be no readjudication of Federal grazing privileges at this time.

2. The Department will identify intended exchange partners through a competitive proposal process. Selection of intended exchange partners will determine the total project area.

3. Upon selection of the intended exchange partner, a one to three year agreement may be negotiated based on the terms of the conservation easement. Completion of the exchange may be withheld until actual experience indicates the terms are workable.

PROPONENT SELECTION CRITERIA

1. Project resource conservation objectives: proponent is willing to:

   a. offer lands which support high quality wildlife habitat consisting of native rangelands presently in excellent condition - (++), good condition - (+), poor condition - (-); and landowner willing to commit to a Department endorsed habitat rehabilitation program, (+).

   b. commit to a rest-rotation grazing system. Yes - Proceed. No- Applicant will be rejected.

   c. share costs of a rest-rotation management plan if selected for initial pasturing agreement. Yes - Proceed. No - Application will be rejected.

   d. share all costs necessary to implement the rest-rotation management plan such as fencing and water development. Yes - Proceed. No - Application will be rejected.

   e. offer lands currently not committed to fee hunting, or if so committed, proponent provides acceptable evidence to the Dept. of intent to terminate the agreement, if selected, and proponent is willing to allow public hunting access upon reaching agreement with the Department. Yes - Proceed, No - application will be rejected.

2. Project administration criteria: proponent offered lands will:

   a. contain at least 3,500 deeded acres in Region 7 - preferably in Custer, Carter, or Powder River County - (++), elsewhere in Region 7 - (+), outside of Region 7 - application will be rejected.

   b. share a common boundary with the Brewer property. Y - 2+ miles - (++), 1 mile - (+), no common boundary - (-).

   c. block up with the Brewer property to form an efficient management unit or form a self-contained management unit. Excellent - (++), good - (+), inefficient - (-) and could be the basis for rejecting the application.

SELECTION OF PRIVATE LAND EXCHANGE PROPONENTS

Description of Method

The selection of conservation easement exchange proponents is essentially a public auction process that is guided by publicly advertised review and acceptance standards and explicit management objectives. As an auction process, it is considered to be the best evidence of market value. The procedure is outlined as follows:

1. Identify the Brewer land to be exchanged.

2. Make necessary property studies for compliance with public policy directives. In the case of the Brewer WMA, careful definition of management objectives and outline conservation easement terms.

3. Meet individually with adjacent landowners to explain the selection process. Respond to inquiries.

4. Publish public notice of the Department's intent to solicit exchange proposals for the Brewer Ranch.

5. Encourage proposals.

6. Set a reasonable deadline for all bids to be received by the responsible agency official.

7. Make an evaluation of all offers to determine which are qualified and to provide an indication of market value being offered. Make an initial selection on the basis of the "Selection Criteria".

8. Decide on the best qualified offer(s) and notify all bidders of the decision. Conduct further negotiations with qualified proponents.

9. Negotiate specific rest-rotation management terms and conservation easement terms. Select best proposals and proceed with one to three year interim agreements, if necessary.

10. Recommend final project completion components to Fish and Game Commission.

11. Fish and Game Commission makes final decision.

12. Conclude transactions.

13. Conduct joint planning process with BLM for possible BLM land exchanges.

3. Proponent's capability to complete the transaction:

   a. Proponent supports the Brewer Management Area concept and is willing to consider a trade of an easement (with terms outlined in the prospectus) for a portion of the Brewer land subject to similar terms. Yes - Proceed. No - Application will be rejected.

   b. Proponent provides preliminary title commitment to verify ownership and encumbrances on surface and mineral estate. Yes, applicant is owner of at least the surface estate - Proceed. No - Application will be rejected.

   c. Proponent is the owner of record or has a legal capability to offer the proposed trade lands (i.e., option to purchase, any such agreement would have to be included with the proposal and found legally sufficient in the opinion of the Department's legal counsel. Yes - Proceed. No - Application will be rejected.

   d. Proponent-owned lands currently unencumbered by liens which would require subordination to the proposed conservation easement, or, if so encumbered, lien holder provides to the Dept. acceptable written evidence of intent to subordinate to the c.e. Yes - Application will be considered, No - Application will be rejected.

   e. Proponent provides uninsured minerals report. Ability to control mineral estate. General control - (+), some control - (0). mineral development possible and little or no control - (-).

   f. Proponent is willing to enter a one to three year agreement based on the easement terms. Yes - Proceed. No - Application will be rejected.

4. Conditions of the selection process: the Department reserves the right to:

   a. withdrawal the offer for any reason

   b. be the sole judge of the quality and acceptability of all offers.

   c. request additional information of any proponent, which, in the opinion of the Department, is necessary to clarify or verify proponent-supplied information.

   d. make a preliminary selection of qualified proponents.

e. Notify all offerors and public of selection of qualified proponents.

f. Negotiate with qualified proponents. For example, the Dept. may want to reduce the number of AUMs committed to one proponent in favor of one or more other proponents to improve the design of the overall project management area. Otherwise specify terms of rest-rotation grazing related improvements, and block management for each qualified proponent.

g. Compare negotiated proposals. Select one or more which best accomplish the Department's objectives.

h. to the extent a numerical scoring system is used, total scores will not necessarily reflect priority, but will be used to assist determination of acceptable proposals.

5. Items to include in a proposal:

a. map, legal description, and estimated total acreage of land owners will consider trading for Brewer Ranch land.

b. identification of Brewer Ranch land (indicate on Brewer property map included with this summary), including desired State and BLM lease lands.

c. current preliminary title report with uninsured mineral ownership report.

d. written evidence of lien holder intent to subordinate to a conservation easement which contains the terms described in this summary.

e. written statement signed by the landowner(s) expressing willingness to commit to rest rotation grazing; general agreement with the summarized conservation easement terms; share costs of management plan preparation and improvements; and willingness to support public hunting on the offered lands.

SUMMARY OF CONSERVATION EASEMENT TERMS

INTRODUCTION

A deed of conservation easement will be reserved on the Brewer Ranch, and the Brewer Ranch land subject to the conservation easement deed, will be traded for similar conservation easements on other ranch lands to consolidate permanent wildlife management areas which protect wildlife habitat, afford public hunting, and yet remain principally managed by private landowners operating livestock ranches. The Landowner will remain responsible for all property taxes levied on the rights held by the Landowner. No reduction is anticipated from the current tax payment requirement for the Landowner. The terms of the easement will address the following concerns:

I. OBJECTIVES

a. Protection of sagebrush-grassland wildlife habitat.

b. Improve habitat condition by rest-rotation livestock grazing management. A rest-rotation management plan and grazing formula will be specified in an appendix to the easement. The management plan and grazing formula will be designed and in place before the easement is permanently conveyed. The Department may require an a 1 to 3 year period for this purpose. If needed, the interim period will be guided by the terms of the easement agreement as a lease or pasturing agreement. The rest-rotation management formula is subject to modification only for changes of livestock class such as from cow/calf pairs to yearling use.

c. Prevent the conversion of the sagebrush-grassland habitat to uses other than historic ranching purposes.

d. Facilitate public access for hunting purposes.

II. THE DEPARTMENT'S RIGHTS AS THE OWNER OF THE CONSERVATION EASEMENT DEED.

a. To identify, preserve, protect, and enhance the wildlife habitat.

b. To establish and maintain a rest-rotation grazing system. (The rest-rotation grazing management system will follow Hormay (1970)).

c. To provide regulated public access for hunting each year. Public access will be managed in a manner similar to the current Block Management Program. However, at the request of the Landowner or if the Landowner fails to manage public access as called for in the easement agreement, the Department will be able to assume responsibility for public hunter access.

d. To prevent activities on the land which are prohibited by the easement deed, including the right to enter the land to enforce the rights, and monitor wildlife and vegetation use in a manner that will not reasonably interfere with the use of the land by the Landowner.

III. LANDOWNER'S RIGHTS

a. To pasture and graze livestock using the rest-rotation grazing management system. A minimum allowable stocking level will be agreed upon.

b. The right to carry on all activities normally associated with ranch management within the limits set by the easement.

c. The right to reasonably regulate hunter access and hunter distribution subject to a management system mutually agreeable to the Department and Landowner.

d. To control public access to the land at all times other than regulated hunter access during Commission designated seasons.

IV. RESTRICTIONS ON LANDOWNER'S USE AND PRACTICES

a. The sagebrush-grassland habitat may not be cultivated.

b. The use of agrichemicals for noxious weed control will be limited to the minimum necessary to accomplish reasonable grazing purposes. Biocides may only be used with prior approval of the Department.

c. Control techniques for predatory and nuisance animals by selective control techniques.

d. The collection of firewood other than for the Landowner's personal use is prohibited.

e. Removal of any live trees is prohibited.

f. The installation of utility structures requires prior approval of the Department and will be allowed only in connection with the construction of agricultural and residential facilities used by the Landowner outside of the area subject to the easement and where there is no other reasonable alternative.

g. The exploration of extraction of minerals, coal, bentonite, hydrocarbons, soils or other materials on or below the surface of the land will be conducted in a manner to minimize impact on wildlife habitat.

h. Subdivision of the land for any purposes is prohibited except for agricultural purposes only.

i. Construction of any structures is prohibited.

j. Any commercial or industrial use of the land is prohibited.

k. Dumping or disposal of any wastes, refuse, or debris on the land is prohibited. Except for that which is generated by activities of this easement providing that any dumping or disposal shall be in accord with public law.

l. Commercial hunting is prohibited.

V. MANAGEMENT PLAN

A Management Plan will be developed for rest-rotation management, specific wildlife habitat improvement measures, annual minimum number of hunters and hunter days for each species, hunting season dates, annual travel plan (if applicable, and lease management (if applicable). The parties will agree to abide by the specific requirements of the Management Plan (Plan), which will be developed to provide detailed guidance in management of the Land. The Plan will be attached to the easement document for reference. It is not intended that the Plan be incorporated into the Easement. The parties shall meet at least annually to review the Plan and if, deemed necessary, to propose amendments. Any amendments to the Plan must have the consent of both parties and must be in writing. If there appears to be a conflict between the Plan and the Easement, the provisions of this Easement shall govern.

VI. BASELINE REPORT

A report will be prepared by the Department which documents the condition of the property at the time the easement is established. This report will be used to enforce terms of this easement. The Department and Landowner will review the report upon its completion and agree that its contents accurately reflect conditions of the property of the time of conveyance.

SECTION IV

WILSON PROPERTY
(Mount Silcox WMA

LOCATION: Sanders County

LAND: 1598 acres deeded

WILDLIFE: Bighorn sheep; elk; white-tailed deer; wild turkeys; upland game birds and nongame wildlife

Bighorn sheep: presently 80 - 120
OBJECTIVE: 110-140

RECREATION: current hunting recreation opportunity levels have not been enumerated, but one of the objectives for the area is to "increase hunting recreation experiences....on the management area and the surrounding Forest Service land."

GRAZING: possible management tool

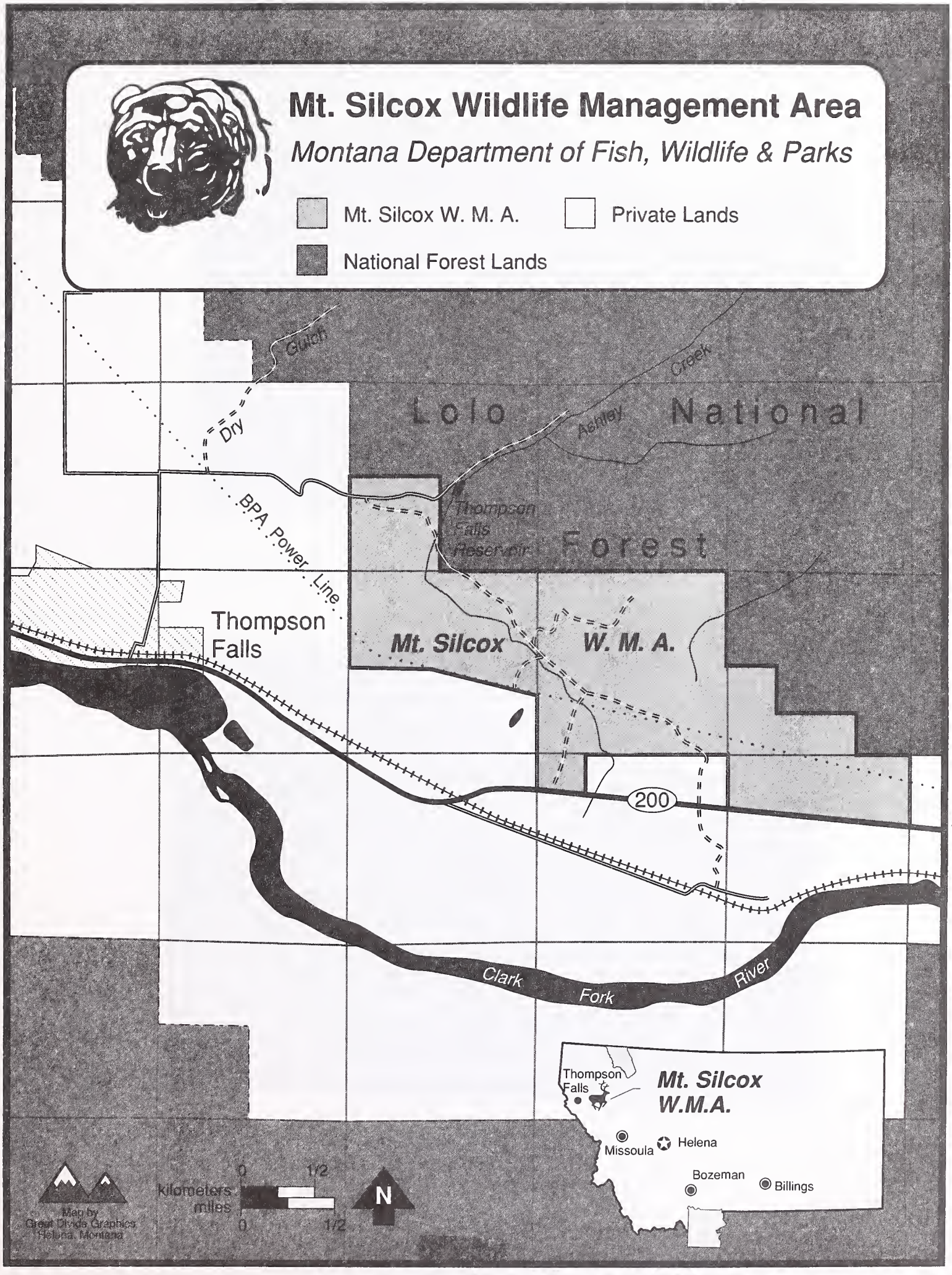
TAXES: Montana Department of Fish, Wildlife and Parks pays 100% in lieu of taxes at same tax rate on land and improvements.

PUBLIC ACCESS: via highway 200

APPRAISAL: Jette, 1989

REASON FOR ACQUISITION: Primary: winter/spring range for bighorn sheep. Secondary: winter/spring habitat for deer, elk and wild turkeys.

STATUS: Fee title of $700,000 approved by the State Land Board, October 1989 ($10,000 donation from The Nature Conservancy).


Mt. Silcox Wildlife Management Area
Montana Department of Fish, Wildlife & Parks
Mt. Silcox W. M. A.
Private Lands
National Forest Lands
Dry Gulch
Ashley Creek
Lolo National Forest
BPA Power Line
Thompson Falls Reservoir
Thompson Falls
Mt. Silcox W. M. A.
200
Clark Fork River
Thompson Falls
Mt. Silcox W.M.A.
Missoula
Helena
Bozeman
Billings
Map by Great Divide Graphics Helena, Montana
kilometers
miles
0
1/2
0
1/2
N

WILSON PROPERTY - BIGHORN SHEEP WINTER HABITAT

SHEEP WINTER/SPRING HABITAT

SECTION V

NELSON PROPERTY SUMMARY
(incorporated into Dome Mtn. WMA)

LOCATION: Park County

LAND: 2,098 acres deeded
160 acres conservation easement
2,258 acres TOTAL

WILDLIFE: for the entire WMA.

ELK: 600 - 700 resident elk use the area Objective is to winter 2,000 - 3,000.

MULE DEER: 50 - 100 use the area year long. The objective is for 100 - 150. Approximately 150 - 200 winter on the area. Objective is for 200 - 250.

Other species on the area are white-tailed deer, waterfowl, upland game birds and nongame species. The area will be managed to improve habitat for all existing species.

RECREATION: Provide 400 hunter days and 200 additional recreation days and one travel lane to national forest.

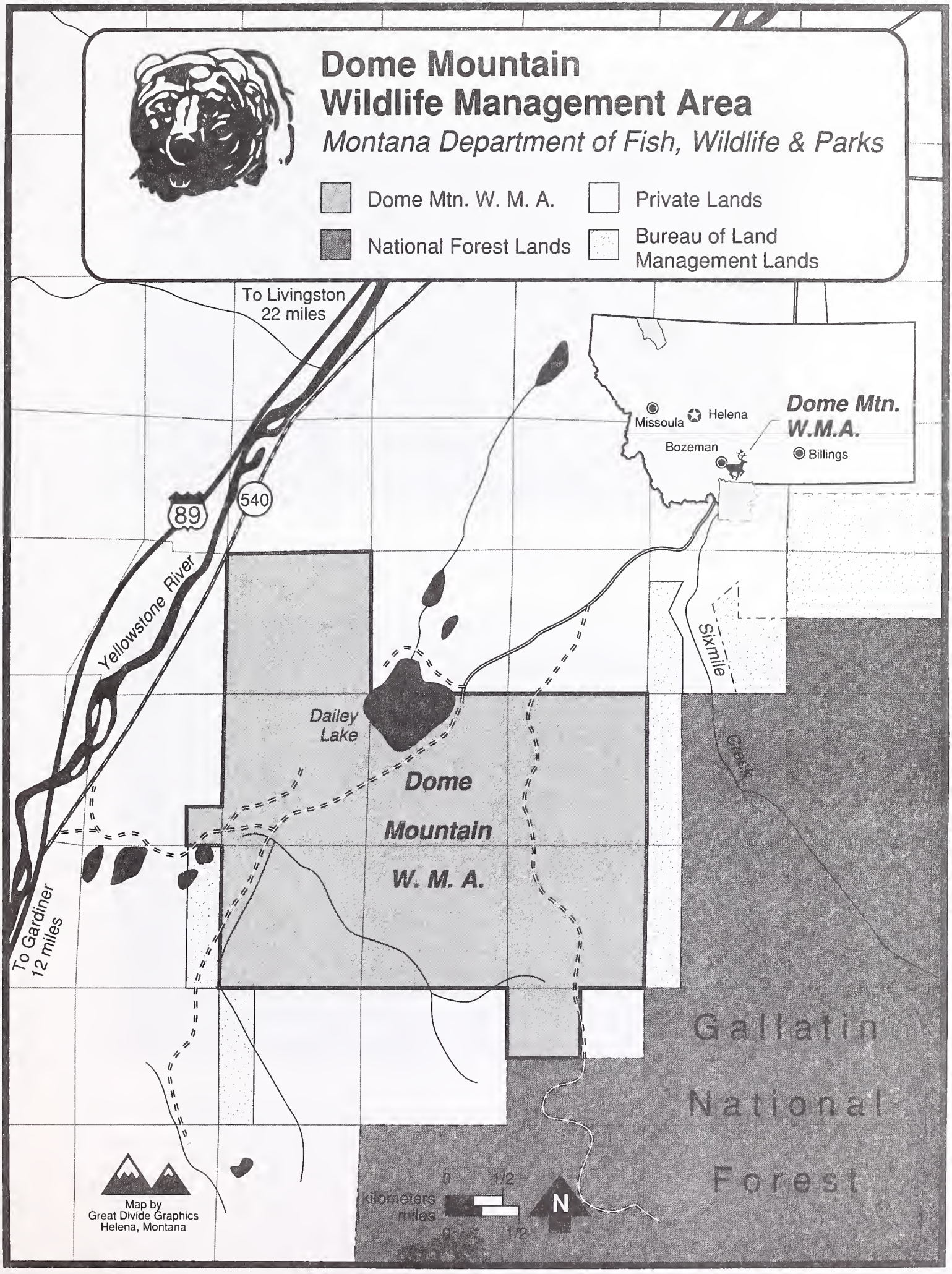
TAXES: Montana Department of Fish, Wildlife and Parks will pay 100% in lieu of taxes on land and improvements.

PUBLIC ACCESS: County road

APPRAISAL: Hoeger and Associates, 1989

REASON FOR ACQUISITION: Elk winter range

STATUS: Fee title of $1.5 million and conservation easement of $90,000, approved by State Land Board in December 1989.


Dome Mountain
Wildlife Management Area
Montana Department of Fish, Wildlife & Parks
Dome Mtn. W. M. A.
National Forest Lands
Private Lands
Bureau of Land Management Lands
To Livingston
22 miles
Missoula
Helena
Bozeman
Billings
Dome Mtn.
W.M.A.
89
540
Yellowstone River
Sixmile
Creek
Dailey
Lake
Dome
Mountain
W. M. A.
To Gardiner
12 miles
Gallatin
National
Forest
Map by
Great Divide Graphics
Helena, Montana
kilometers
miles
0
1/2
N

NELSON PROPERTY - ELK WINTER HABITAT

WINTERING ELK